



February 20, 2015

SENATE BILL No. 71

DIGEST OF SB 71 (Updated February 18, 2015 2:49 pm - DI 106)

Citations Affected: IC 33-31; IC 33-33.

Synopsis: St. Joseph circuit court magistrate. Provides that when the judge of the St. Joseph circuit court or probate court appoints a full-time magistrate, the judge may not consider the political affiliation of a candidate for magistrate. Provides that when the judges of the St. Joseph superior court jointly appoint a full-time magistrate and must consider the political affiliation of the appointee, the selection method concerning the political affiliation of the appointee must take into consideration: (1) the most recent primary election in which the appointee voted was a primary election held by the party with which the appointee claims affiliation; or (2) the appointee is certified as a member of that party by the party's county chairman for the county in which the appointee resides. Makes the chief judge of the St. Joseph County superior court the chairperson of the St. Joseph County judicial nominating commission. Provides that meetings of the St. Joseph judicial nominating commission (commission) must be held at a place in: (1) the St. Joseph County courthouse; or (2) another building owned or operated by St. Joseph County; in South Bend as the clerk of the St. Joseph superior court may arrange. Provides that the commission shall act only by the concurrence of a majority of its members.

Effective: July 1, 2015.

Zakas

January 6, 2015, read first time and referred to Committee on Rules & Legislative Procedure.

February 12, 2015, amended; reassigned to Committee on Judiciary.

February 19, 2015, amended, reported favorably — Do Pass.

SB 71—LS 6167/DI 13



February 20, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 71

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-31-1-24, AS AMENDED BY P.L.201-2011,
2 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 24. The judge of the St. Joseph probate court may
4 appoint three (3) full-time magistrates under IC 33-23-5. The
5 magistrates continue in office until removed by the judge. **In making**
6 **an appointment under this section, the judge may not consider the**
7 **political affiliation of a candidate for magistrate.**

8 SECTION 2. IC 33-33-71-3 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. **(a)** The judge of the
10 St. Joseph circuit court may appoint two (2) full-time magistrates under
11 IC 33-23-5 to serve the circuit court. **In making an appointment**
12 **under this section, the judge may not consider the political**
13 **affiliation of a candidate for magistrate.**

14 **(b)** A magistrate continues in office until removed by the judge.

15 SECTION 3. IC 33-33-71-30 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 30. (a) The judicial

SB 71—LS 6167/DI 13



1 nominating commission (referred to as the "commission" in this
 2 chapter) consists of seven (7) members, the majority of whom shall
 3 form a quorum. The chief justice shall ~~appoint a justice of the supreme~~
 4 ~~court or a judge of the court of appeals to serve as a member and~~
 5 ~~chairman of the commission until a successor is appointed:~~ **judge of**
 6 **the St. Joseph County superior court serves ex officio as a member**
 7 **and chairperson of the commission.** Those admitted to the practice
 8 of law in Indiana and residing in St. Joseph County or maintaining their
 9 principal law office in St. Joseph County shall elect, under sections 32
 10 and 33 of this chapter, three (3) of their number to serve as attorney
 11 members of the commission. If any attorney member of the commission
 12 terminates residence in St. Joseph County or discontinues the
 13 maintenance of a principal law office in St. Joseph County, the member
 14 shall be considered to have resigned from the commission. The three
 15 (3) remaining members of the commission must be persons not
 16 admitted to the practice of law (referred to as "nonattorney members"
 17 in this chapter) and residents of St. Joseph County. However, not more
 18 than two (2) of the nonattorney members may be from the same
 19 political party and that the appointment of the nonattorney members of
 20 the commission shall be made under section 31 of this chapter. Not
 21 more than four (4) commission members may be from the same
 22 political party.

23 (b) **This subsection does not apply to the chief judge of the St.**
 24 **Joseph County superior court.** A member of the commission may not
 25 hold any other salaried public office nor an office in a political party
 26 organization. A member of the commission is not eligible for
 27 appointment to a judicial office in St. Joseph County who has, within
 28 four (4) years immediately preceding an appointment, served on the
 29 commission. If any nonattorney member of the commission terminates
 30 residence in St. Joseph County, the member is considered to have
 31 resigned from the commission.

32 SECTION 4. IC 33-33-71-36 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 36. (a) When a vacancy
 34 occurs in the St. Joseph superior court, the clerk of the court shall
 35 promptly notify the chairman of the commission of the vacancy. The
 36 chairman shall call a meeting of the commission within ten (10) days
 37 following this notice. The commission shall submit its nominations of
 38 five (5) candidates for each vacancy and certify them to the governor
 39 as promptly as possible, and not later than sixty (60) days after the
 40 vacancy occurs. When it is known that a vacancy will occur at a
 41 definite future date within the term of the serving governor, but the
 42 vacancy has not yet occurred, the clerk shall notify the commission



1 immediately. The commission may within fifty (50) days of the notice
 2 of vacancy make its nominations and submit to the governor the names
 3 of five (5) persons nominated for the forthcoming vacancy.

4 (b) Meetings of the commission shall be called by the chairman or,
 5 if the chairman fails to call a necessary meeting, upon the call of any
 6 four (4) members of the commission. The chairman, whenever the
 7 chairman considers a meeting necessary, or upon the request by any
 8 four (4) members of the commission for a meeting, shall give each
 9 member of the commission at least five (5) days written notice by mail
 10 of the time and place of every meeting unless the commission at its
 11 previous meeting designated the time and place of its next meeting.

12 (c) Meetings of the commission must be held at a place in:

13 (1) the St. Joseph County courthouse; **or**

14 (2) **another building owned or operated by St. Joseph County;**
 15 in South Bend as the clerk of the St. Joseph superior court may arrange.

16 (d) The commission shall act only at a meeting and may act only by
 17 the concurrence of a majority of its members. ~~attending a meeting.~~ Four
 18 (4) members are required to constitute a quorum at a meeting. The
 19 commission may adopt reasonable and proper rules and regulations for
 20 the conduct of its proceedings and the discharge of its duties.

21 SECTION 5. IC 33-33-71-69, AS AMENDED BY P.L.127-2008,
 22 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2015]: Sec. 69. (a) The **superior** court may **jointly** appoint
 24 two (2) full-time magistrates under IC 33-23-5 to serve the court using
 25 the selection method provided by IC 36-1-8-10(b)(1) or
 26 ~~IC 36-1-8-10(b)(2); IC 36-1-8-10(b)(3).~~ Not more than one (1) of the
 27 magistrates appointed under this section may be a member of the same
 28 political party.

29 (b) A magistrate continues in office until **jointly** removed by the
 30 judges of the court.



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 71, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

(Reference is to SB 71 as introduced.)

LONG, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 71, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 33-31-1-24, AS AMENDED BY P.L.201-2011, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 24. The judge of the St. Joseph probate court may appoint three (3) full-time magistrates under IC 33-23-5. The magistrates continue in office until removed by the judge. **In making an appointment under this section, the judge may not consider the political affiliation of a candidate for magistrate.**".

Page 1, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 3. IC 33-33-71-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 30. (a) The judicial nominating commission (referred to as the "commission" in this

SB 71—LS 6167/DI 13



chapter) consists of seven (7) members, the majority of whom shall form a quorum. The chief justice shall appoint a justice of the supreme court or a judge of the court of appeals to serve as a member and chairman of the commission until a successor is appointed. **judge of the St. Joseph County superior court serves ex officio as a member and chairperson of the commission.** Those admitted to the practice of law in Indiana and residing in St. Joseph County or maintaining their principal law office in St. Joseph County shall elect, under sections 32 and 33 of this chapter, three (3) of their number to serve as attorney members of the commission. If any attorney member of the commission terminates residence in St. Joseph County or discontinues the maintenance of a principal law office in St. Joseph County, the member shall be considered to have resigned from the commission. The three (3) remaining members of the commission must be persons not admitted to the practice of law (referred to as "nonattorney members" in this chapter) and residents of St. Joseph County. However, not more than two (2) of the nonattorney members may be from the same political party and that the appointment of the nonattorney members of the commission shall be made under section 31 of this chapter. Not more than four (4) commission members may be from the same political party.

(b) This subsection does not apply to the chief judge of the St. Joseph County superior court. A member of the commission may not hold any other salaried public office nor an office in a political party organization. A member of the commission is not eligible for appointment to a judicial office in St. Joseph County who has, within four (4) years immediately preceding an appointment, served on the commission. If any nonattorney member of the commission terminates residence in St. Joseph County, the member is considered to have resigned from the commission."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 71 as printed February 13, 2015.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 1.

